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BY ECF and E-Mail

The Honorable William F. Kuntz, II
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Raymond Leonard, 19-cr-00365-WFK

Dear Judge Kuntz,

We write to briefly reply to the government's response to his motion for bond and appointment of new counsel. *See* Gov't Opp. Dkt. No. 23 (Apr. 10, 2020).

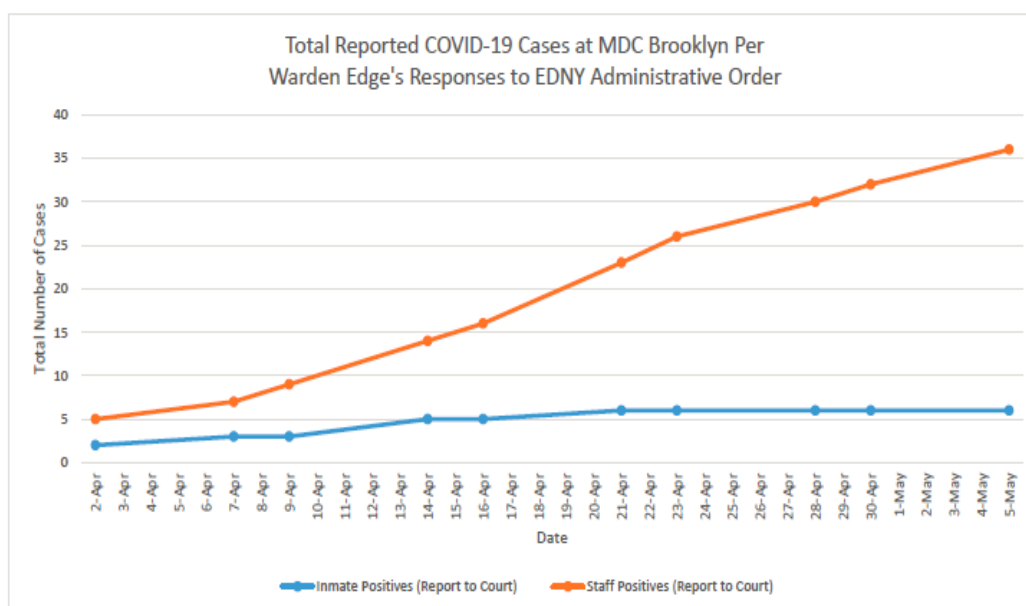
To start, the government agrees that Mr. Leonard should be appointed new counsel and joins in the defense's request that new counsel be appointed. *Id.* at 1, 9. Nearly three months have passed since the Court granted Mr. Leonard's request for new counsel on February 21, 2020. Minute Entry, Feb. 21, 2020. On behalf of Mr. Leonard, we respectfully request that the Court appoint new counsel as soon as possible so there are no further delays in moving forward with this case.

With respect to Mr. Leonard's motion for bond, for the reasons indicated in our initial motion, we request that he be released to live with his wife and son in New Jersey pursuant to a bond co-signed by Mr. Leonard's mother and subject to restrictive conditions, including home detention, electronic monitoring and the surrender of any passports.

In the month since Mr. Leonard requested bond, the MDC Brooklyn has continued to fail to adequately track and prevent the spread of COVID-19 among inmates despite an alarming rise in positive cases among facility staff. For the past six weeks, inmates at the MDC have been confined to their cells for 24 hours a day, except for Mondays, Wednesdays, and Fridays when they are briefly released to use *communal* phones, showers, and computers. This is just one of the reasons why a correctional health expert who evaluated the MDC concluded that "current practices in MDC actually promote a more rapid spread of COVID-19 inside the facility and serve to work

against some of the infection control measures already in place.” See Exhibit A (Facility Evaluation: Report of Metropolitan Detention Center by Dr. Homer Venters, *Chunn et al v. Edge*, 20-cv-01590-RPK-RLM, ECF Dkt. No. 72 at ¶ 3 (E.D.N.Y. Apr. 30, 2020))

The low number of confirmed COVID-19 cases among inmates should give the Court no comfort given the lack of testing. Indeed, the little testing the MDC has actually done shows the facility is most likely undercounting the number of inmates with COVID-19. On April 3, 2020, the MDC reported having tested seven inmates for the virus and five positive staff members with confirmed cases.¹ As of May 7, 2020, a total of 36 staff members have tested positive for the virus, yet only 15 of the MDC’s 1,700 inmates have been tested at all.² The following graph illustrates the change in positive cases among inmates and staff at the MDC over the past month:



The lack of change in the number of positive inmates is likely due to the fact that the MDC has only tested eight additional inmates since April 2nd, while the number of positive staff

¹ 04/03/2020 Report from the Bureau of Prisons regarding the Metropolitan Detention Center and Metropolitan Correctional Center, Coronavirus (COVID-19) Information, Eastern District of New York (Apr. 3, 2020), https://img.nyed.uscourts.gov/files/reports/bop/20200403_BOP_Report.pdf

² 05/07/2020 Report from the Bureau of Prisons regarding the Metropolitan Detention Center and Metropolitan Correctional Center, Coronavirus (COVID-19) Information, Eastern District of New York (May 7, 2020), https://www.nyed.uscourts.gov/pub/bop/MDC_MCC_20200507_034748.pdf

members has increased six-fold during the same time period. That there are more than twice as many positive staff members than inmates tested is disturbing to say the least.

For all these reasons, and those in our initial motion, the Court should temporarily release Mr. Leonard to protect his physical health.

Thank you for your consideration of this matter.

Respectfully submitted,

/s/

Leticia M. Olivera

Federal Defenders of New York, Inc.

cc: Andrew Grubin, Assistant U.S. Attorney